

CLAIMS RESOLUTION TRIBUNAL

In re Holocaust Victim Assets Litigation
Case No. CV96-4849

Certified Award

to Claimant [REDACTED]

in re Account of Sophie Wertheimer

Claim Numbers: 209603/MBC¹

Award Amount: 162,500.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED], née [REDACTED], (the “Claimant”) to the unpublished account of Sophie Wertheimer (the “Account Owner”) at the [REDACTED] (the “Bank”). The account awarded is from the Total Accounts Database (“TAD”) at the Bank.

All awards are published, but where a claimant has requested confidentiality, as in this case, the names of the claimant, any relatives of the claimant other than the account owner, and the bank have been redacted.

Information Provided by the Claimant

The Claimant submitted a Claim Form identifying the Account Owner as her mother, Sophie Wertheimer, née Maschke, who was born on 19 November 1875 in Buetow Pommern, Germany, and was married to [REDACTED] on 1 July 1911 in Berlin, Germany. The Claimant indicated that her mother was a teacher and that her father was a banker for the *Disconto Gesellschaft* and later for the *Deutsche Bank*. The Claimant indicated that her parents had two children: herself and her older brother, [REDACTED], who was born on 26 September 1912 in Peine, Germany and died in South Africa. The Claimant further stated that her parents, who were Jewish, resided in Peine until 1928, when they moved to Wiesbaden, Germany. The Claimant further indicated that in Wiesbaden her parents were forced out of their home into a “Jew House,” from which they were deported to Theresienstadt, where they both perished. The Claimant submitted a court decision from Wiesbaden confirming that her parents were deported to Theresienstadt on 1 September 1942 and that [REDACTED] perished on 12 December 1942 and that Sophie Wertheimer perished on 4 June 1943. The Claimant has also submitted a page of testimony to

¹ [REDACTED] submitted a claim, numbered B-00305, on 7 November 1997, to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was referred by the HCPO to the CRT and has been assigned Claim Number 601206. Claimant [REDACTED] submitted an additional claim to the account of [REDACTED], which is registered under the Claim Number 209601. The CRT will treat the claim to this account in a separate decision.

the Yad Vashem Memorial of Israel on 7 May 1992, in which she confirmed that her mother was Sophie Wertheimer, who perished in Theresienstadt.

The Claimant indicated that she was born on 20 April 1914 in Peine.

The Claimant previously submitted an Initial Questionnaire with the Court in 1999 and an HCPO claim form in 1997, asserting her entitlement to a Swiss bank account owned by her father, [REDACTED].²

Information Available in the Bank's Record

The Bank's record consists of a partly illegible customer card. According to this record, the Account Owner was Mrs. (*Frau*) Sophie Wertheimer and the power of attorney holder was Mr. (*Herr*) [REDACTED]. The Bank's record indicates that the Account Owner held a custody account numbered 22017. There is evidence in the Bank's record that the account was active in 1925 and in 1928.

The Bank's record does not show when the account at issue was closed, or to whom it was paid, nor does this record indicate the value of this account. There is no evidence in the Bank's record that the Account Owner or the power of attorney holder closed the account and received the proceeds themselves.

This account was not part of the Account History Database at the CRT, but was identified as a result of matching and research carried out at the Bank and using, as noted above, the TAD at the Bank. The TAD at the Bank is one of the several databases that comprise a total of approximately 4.1 million accounts. These are part of the approximately 6.9 million accounts that were identified by the Independent Committee of Eminent Persons ("ICEP") auditors as open or opened in the 1933-1945 period in Swiss banks, less the estimated 2.8 million accounts for which no records remain. These 4.1 million accounts, in databases located at the 59 ICEP audited Swiss banks,³ are composed of 1.9 million savings accounts with a 1930-1940s value of 250 Swiss francs or less and accounts with Swiss addresses, and 2.2 million accounts that ICEP concluded should not be included in the Account History Database, that is within the 36,000 accounts that ICEP determined were "probably or possibly" owned by victims of Nazi persecution.

The account awarded is part of a group of accounts identified in the TAD.

² The CRT did not locate an account belonging to the Claimant's father, [REDACTED], in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons ("ICEP" or "ICEP Investigation"), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the "Rules"). The Claimant should be aware that the CRT will carry out further research on her claim to determine whether an award may be made based upon the information provided by the Claimant or upon information from other sources.

³ These 59 audited banks represent 254 banks that existed in the 1933-1945 period.

The CRT's Analysis

Identification of the Account Owner

The Claimant's mother's name matches the unpublished name of the Account Owner.

The CRT notes that the Bank's record does not contain any specific information about the Account Owner other than her name.

In support of her claim, the Claimant submitted a court decision from Wiesbaden, Germany confirming that her mother, Sophie Wertheimer, perished on 4 June 1943, providing independent verification that the person who is claimed to be the Account Owner had the same name recorded in the Bank's record as the name of the Account Owner.

The CRT notes that the Claimant did not identify the power of attorney holder.

The CRT notes that the Claimant filed an Initial Questionnaire with the Court in 1999 and an HCPO claim form in 1997, asserting her entitlement to a Swiss bank account owned by her father, Arthur Wertheimer, prior to the publication in February 2001 of the list of accounts determined by ICEP to be probably or possibly those of Victims of Nazi Persecution (the "ICEP List"). This indicates that the Claimant has based her present claim not simply on the fact that an individual identified on the ICEP List as owning a Swiss bank account bears the same name as her relative, but rather on a direct family relationship that was known to her before the publication of the ICEP List. It also indicates that the Claimant had reason to believe that her parents owned a Swiss bank account prior to the publication of the ICEP List. This supports the credibility of the information provided by the Claimant.

The CRT notes that the other claim to this account was disconfirmed since that claimant indicated that her relative passed away before the Second World War, when the account was still active. Taking all of these factors into account, the CRT concludes that the Claimant has plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

The Claimant has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. The Claimant stated that the Account Owner was Jewish, and that she was deported to Theresienstadt, where she perished. The Claimant submitted a court decision from Wiesbaden confirming that her parents were deported to Theresienstadt on 1 September 1942 and that Sophie Wertheimer perished on 4 June 1943. The Claimant has also submitted a page of testimony to the Yad Vashem Memorial of Israel on 7 May 1992, where she confirmed that her mother was Sophie Wertheimer, who perished in Theresienstadt.

The Claimant's Relationship to the Account Owner

The Claimant has plausibly demonstrated that she is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was the Claimant's

mother. These documents include a court decision from Wiesbaden confirming that the Claimant's mother was Sophie Wertheimer and a page of testimony to the Yad Vashem Memorial of Israel on 7 May 1992, in which the Claimant confirmed that her mother was Sophie Wertheimer, who perished in Theresienstadt.

The Issue of Who Received the Proceeds

The Bank's record does not show when the account at issue was closed, or to whom it was paid, nor does this record indicate the value of this account.

Given that the Account Owner was deported to Theresienstadt in 1942 where she perished in 1943; that there is no record of the payment of the Account Owner's account to her nor any record of a date of closure of the account; that the Account Owner's heirs would not have been able to obtain information about her account after the Second World War from the Bank due to the Swiss banks' practice of withholding or misstating account information in their responses to inquiries by account owners because of the banks' concern regarding double liability; and given the application of Presumptions (h) and (j), as provided in Article 28 of the Rules Governing the Claims Resolution Process, as amended (the "Rules") (see Appendix A), the CRT concludes that it is plausible that the account proceeds were not paid to the Account Owner, the power of attorney holder, or their heirs. Based on its precedent and the Rules, the CRT applies presumptions to assist in the determination of whether or not Account Owners or their heirs received the proceeds of their accounts.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimant. First, the claim is admissible in accordance with the criteria contained in Article 18 of the Rules. Second, the Claimant has plausibly demonstrated that the Account Owner was her mother, and that relationship justifies an Award. Third, the CRT has determined that it is plausible that neither the Account Owner, the power of attorney holder nor their heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held a custody account. Pursuant to Article 29 of the Rules, when the value of an account is unknown, as is the case here, the average value of the same or a similar type of account in 1945 is used to calculate the current value of the account being awarded. Based on the ICEP Investigation, in 1945 the average value of a custody account was 13,000.00 Swiss Francs ("SF"). The current value of this amount is calculated by multiplying it by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 162,500.00.

Scope of the Award

The Claimant should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on her claim to determine whether there are additional Swiss bank accounts to which she might be entitled, including research of the Total Accounts Database (consisting of records of 4.1 million Swiss bank accounts which existed between 1933 and 1945) at banks other than the Bank.

Certification of the Award

The CRT certifies this Award for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal
21 September 2005

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